

(c)(1) A combination of cost and price analysis shall be used for contracts where premiums and subscription income are based on community rates. For contracts for which the FEHBP premiums for the contract term will be less than \$500,000, OPM shall not require the carrier to provide cost or pricing data. The carrier must submit only a rate proposal and abbreviated utilization data for the applicable contract year. OPM will evaluate the proposed rates by performing a basic reasonableness test on the information submitted. Rates failing this test will be subject to further review.

(2) For contracts with fewer than 1,500 enrollee contracts for which the FEHBP premiums for the contract term will be \$500,000 or more, OPM shall require the carrier to submit its rate proposal, utilization data, and the certificate of accurate cost or pricing data required in 1615.804-70. In addition, OPM shall require the carrier to complete the proposed rates form containing cost and pricing data, and the Community Rate Questionnaire, but shall not require the carrier to send these documents to OPM. The carrier shall keep the documents on file for periodic auditor and actuarial review in accordance with 1652.204-70. OPM shall perform a basic reasonableness test on the data submitted. Rates that do not pass this test shall be subject to further OPM review.

(3) For contracts with 1,500 or more enrollee contracts for which the FEHBP premiums for the contract term will be at least \$500,000, OPM shall require the carrier to provide the data and methodology used to determine the FEHBP rates. OPM shall also require the data and methodology used to determine the rates for the carrier's similarly sized subscriber groups. The carrier shall provide cost or pricing data required by OPM in its rate instructions for the applicable contract period. OPM shall evaluate the data to ensure that the rate is reasonable and consistent with the requirements in this chapter. If necessary, OPM may require the carrier to provide additional documentation.

(4) Contracts shall be subject to a downward price adjustment if OPM determines that the Federal group was

charged more than it would have been charged using a methodology consistent with that used for the SSSGs. Such adjustments shall be based on the lower of the two rates determined by using the methodology (including discounts) the Carrier used for the two SSSGs.

(5) FEHBP community rated carriers shall comply with SSSG criteria provided by OPM in the rate instructions for the applicable contract period.

(d) The application of FAR 15.802(b)(2) should not be construed to prohibit the consideration of preceding year surpluses or deficits in carrier-held reserves in the rate adjustments for subsequent year renewals of contracts based, in whole or in part, on cost analysis.

(e) *Exceptions for the 3-Year DoD Demonstration Project (10 U.S.C. 1108).* (1) Similarly sized subscriber group (SSSG) rating methodologies will not be used to determine the reasonableness of a community-rated carrier's demonstration project premium rates. Carrier premium rates will not be adjusted for equivalency with SSSG rating methodologies. Carriers will benchmark premiums against adjusted community rates if available, Medigap offerings, or other similar products.

(2) Community-rated carriers must propose premium rates with cost or pricing data and rating methodology, and experience-rated carriers must propose premium rates with cost data and rating methodology regardless of group size or annual premiums.

[62 FR 47574, Sept. 10, 1997, as amended at 64 FR 36272, July 6, 1999; 65 FR 36386, June 8, 2000]

1615.804-70 Certificate of cost or pricing data for community rated carriers.

The contracting officer shall require a carrier with a contract meeting the requirements in 1615.802(c)(2) or 1615.802(c)(3) to execute the Certificate of Accurate Cost or Pricing Data contained in this section. A carrier with a contract meeting the requirements in 1615.802(c)(2) shall complete the Certificate and keep it on file at the carrier's place of business in accordance with 1652.204-70. A carrier with a contract meeting the requirements in

1615.804-71

1615.802(c)(3) shall submit the Certificate to OPM along with its rate reconciliation, which is submitted during the first quarter of the applicable contract year.

CERTIFICATE OF ACCURATE COST OR PRICING DATA FOR COMMUNITY RATED CARRIERS

This is to certify that, to the best of my knowledge and belief: (1) The cost or pricing data submitted (or, if not submitted, maintained and identified by the carrier as supporting documentation) to the Contracting Officer or the Contracting Officer's representative or designee, in support of the

* FEHBP rates were developed in accordance with the requirements of 48 CFR Chapter 16 and the FEHBP contract and are accurate, complete, and current as of the date this certificate is executed; and (2) the methodology used to determine the FEHBP rates is consistent with the methodology used to determine the rates for the carrier's Similarly Sized Subscriber Groups.

Firm: _____

Name: _____

Signature: _____

Date of Execution: _____

*Insert the year for which the rates apply. Normally, this will be the year for which the rates are being reconciled.

(End of Certificate)

[62 FR 47575, Sept. 10, 1997]

1615.804-71 [Reserved]

1615.804-72 Rate reduction for defective pricing or defective cost or pricing data.

The clause set forth in section 1652.215-70 shall be inserted in FEHBP contracts for \$500,000 or more that are based on a combination of cost and price analysis (community rated).

[62 FR 47575, Sept. 10, 1997]

1615.805-70 Carrier investment of FEHB funds.

(a) This paragraph does not apply to contracts based on a combination of cost and price analysis (community rated).

(b) The carrier is required to invest and reinvest all funds on hand, including any attributable to the special reserve or the reserve for incurred but unpaid claims, exceeding the funds needed to discharge promptly the obligations incurred under the contract.

(c) The carrier is required to credit income earned from its investment of

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FEHB funds to the special reserve on behalf of the FEHB Program. If a carrier fails to invest excess FEHB funds or to credit any income due the contract, for whatever reason, it shall return or credit any investment income lost to OPM or the special reserve.

(d) *Investment income.* Investment income is the net amount earned by the carrier after deducting investment expenses.

[52 FR 16040, May 1, 1987, as amended at 55 FR 27415, July 2, 1990; 62 FR 47575, Sept. 10, 1997]

1615.805-71 Investment income clause.

The clause set forth in 1652.215-71 shall be inserted in all contracts based on cost analysis.

Subpart 1615.9—Profit

1615.902 Policy.

(a) OPM will determine the profit or fee prenegotiation objective (service charge) portion of FEHBP contracts by use of a weighted guidelines structured approach when the pricing of such contracts is determined by cost analysis. The service charge so determined shall be the *total* service charge that may be negotiated for the contract and shall encompass any service charge (whether entitled service charge, profit, fee, contribution to reserves or surpluses, or any other title) that may have been negotiated by the prime contractor with any subcontractor or underwriter.

(b) OPM will not guarantee a minimum service charge.

1615.905 Profit analysis factors.

(a) OPM contracting officers will apply a weighted guidelines method in developing the service charge prenegotiation objective for FEHBP contracts. The following factors as defined in FAR 15.905-1 will be applied to projected incurred claims and allowable administrative expenses:

(1) *Contractor performance.* OPM will consider such elements as the accurate and timely processing of benefit claims and the volume and validity of disputed claims as measures of economical and efficient contract performance. This factor will be judged apart from the contractor's *basic* responsibility for